

**Amendment No. 1 to HB0401**

**Watson**  
**Signature of Sponsor**

**AMEND Senate Bill No. 559**

**House Bill No. 401\***

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 40, Chapter 6, Part 1, is amended by adding the following new section thereto:

40-6-108.

(a) Notwithstanding any provision of law to the contrary, any evidence that is seized as a result of executing a search warrant issued pursuant to title 40, chapter 6, part 1 or pursuant to Tenn. R. Crim. Pro. Rule 41 that is otherwise admissible in a criminal proceeding and not in violation of the constitutions of the United States or the State of Tennessee shall not be suppressed as a result of any violation of title 40, chapter 6, part 1 or any violation of Tenn. R. Crim. Pro. Rule 41 if the court determines that such violation was a result of a good faith mistake or technical violation made by a law enforcement officer, court official, or the issuing magistrate as defined in subsection (c).

(b) This section does not limit or prohibit the enforcement of any appropriate civil remedy in actions pursuant to other provisions of law against any individual or government entity found to have conducted an unreasonable search or seizure; provided, however, unless otherwise provided by federal law or the Tennessee Constitution, if any evidence is seized as a result of a good faith mistake or technical violation, as defined in subsection (c), the individual or government entity shall not be civilly liable.

(c) As used in this section, unless the context otherwise requires, "good faith mistake or technical violation" means:

(1) An unintentional clerical error or omission made by a law enforcement officer, court official or issuing magistrate in the form, preparation, issuance, filing and handling of copies, or return and inventory of a search warrant;

(2) When the officer to whom the warrant is delivered for execution is not present during the execution but an officer with law enforcement authority over the premises does otherwise execute the search warrant;

(3) A reasonable reliance on a statute that is subsequently ruled unconstitutional; or controlling court precedent that is overruled after the issuance of a search warrant, unless the court overruling the precedent orders the new precedent to be applied retroactively.

SECTION 2. This act shall take effect July 1, 2011, the public welfare requiring it.